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09/872,300	05/31/2001	Andrew Thomson	5150-46100	2378
35690 7590 12/28/2009 MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398				
EXAMINER BURGEISS, BARBARA N				
ART UNIT 2457		PAPER NUMBER		
NOTIFICATION DATE 12/28/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

09/872,300

**Applicant(s)**

THOMSON, ANDREW

**Examiner**

BARBARA N. BURGESS

**Art Unit**

2457

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 82-84, 87-102, 104 and 105 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 82-84, 87-102, 104 and 105 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/C.3)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Office Action is in response to Board Affirm and Request for Continuation Examination (RCE) filed November 11, 2009. Claims 85-86, 103, 106 have been cancelled as requested by Applicant. Claims 82-84, 87-102, 104-105 are presented for further examination.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 82-84, 87-91, 93-102, 104-105 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Nagaoka et al. (hereinafter "Nag", US Patent Publication 2002/0180579 A1) in view of Humpleman et al. (hereinafter "Humpleman", US Patent Publication 2001/0011284 A1).

As per claim 82, Nag discloses a method, comprising:

- A first device (terminal device) coupled to a network (home network) sending a request to a second device (home server) coupled to the network to access a traditional instrument (home-located electronic devices), wherein the traditional

instrument is coupled to the second device (home server) via an instrumentation bus (home bus), wherein an instrument driver is required by the second device to communicate with the traditional instrument, wherein the second device (home server) is not configured with the instrument driver, and wherein the traditional instrument does not include inherent Internet capabilities, and wherein the instrumentation bus is not the Internet (paragraphs [0082, 0090-0091, 0093-0094]);

- The second device (home server) receiving the request to access the traditional instrument(home-located electronic devices) (paragraphs [0111, 0171]);
- The second device (home server) receiving an instrument driver in response to said receiving request to access the traditional instrument (home-located electronic devices), wherein the instrument driver is downloaded directly from the network, and wherein the instrument driver is usable by the second device to communicate with the traditional instrument (paragraphs [0041, 0045], Nagaoka teaches the home server (second device) receiving the driver software from the management facility in order to control the home-located electronic devices);
- The second device (home server) accessing the traditional instrument (home-located electronic devices)via the instrumentation bus in response to said request to access the traditional instrument (paragraphs [0093, 0094-0096, 0106]);
- The traditional instrument (home-located electronic devices)sending instrument data to the second device via the instrumentation bus in response to the second device (home server) accessing the traditional instrument (home-located electronic devices) (paragraph [0091]);

- The second device (home server) receiving the instrument data sent from the traditional instrument (home-located electronic devices) via the instrumentation bus (paragraphs [0093, 0094-0096, 0106]);
- The second device (home server) sending the instrument data to the first device via the network (paragraphs [0096, 0111, 0179]).

Nag does not explicitly disclose:

- Wherein the first device comprises a web browser, wherein the request to access the traditional instrument is generated in response to user input to the web browser, wherein the user input that generates the request to access the traditional instrument is received by the web browser in a web page provided by the second device.

However, in an analogous art, Humpleman teaches a browser based home network using Internet technology to control and command home devices that are connected to a home network. A home device (server) communicates with a home device client using network communication layers by employing the Internet Protocol standard for the network layer. A user accesses a GUI to enable a user to control a home device (paragraphs [0039, 0042-0043]).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Humpleman's first device comprises a web browser wherein the user input generates the request in a web page provided by the second device in Nag's method allowing a homeowner to control and command several different home devices.

As per claim 83, Nag further discloses the method of claim 82, further comprising displaying on the first device (terminal device) a graphical user interface to the traditional instrument (home-located electronic devices) coupled to the second device (home server), wherein the graphical user interface is operable by the user to remotely control functionality of the traditional instrument from the second device (home server) (paragraphs [0150, 0178-0179, 0182]).

As per claim 84, Nag discloses the method of claim 82, further comprising:

- the first device (terminal device) receiving the instrument data from the second device (home server) via the network (paragraph [0096]);
- displaying the received instrument data on the first device (terminal device) (paragraphs [0194-0195]).

As per claim 87, Nag discloses the method of claim 82, wherein the web page provides a graphical user interface to the traditional instrument (home-located electronic devices) coupled to the second device (home server) (paragraphs [0007, 0043, 0086-0088, 0114, 0135]).

As per claim 88, Nag disclose the method of claim 82, wherein the second device comprises an instrument server, and wherein the second device accessing the traditional instrument comprises:

- The instrument server accessing an instrument driver for the traditional instrument (home-located electronic devices) (paragraph [0254]);
- The instrument driver accessing the traditional instrument (home-located electronic devices) via the instrumentation bus in response to the instrument server accessing the instrument driver (paragraph [0257]).

As per claim 89, Nag discloses the method of claim 82, further comprising, prior to the first device sending the request to access the traditional instrument:

- the instrument server providing instrument information about one or more traditional instruments (home-located electronic devices) coupled to the second device (home server) to the first device through the network, wherein the one or more traditional instruments include the traditional instrument (paragraph [0038]);
- displaying the instrument information about the one or more traditional instruments (home-located electronic devices) on the first device (terminal device) (paragraph [0086]).

As per claim 90, Nag discloses the method of claim 82, wherein a plurality of traditional instruments (home-located electronic devices) including the traditional instrument are coupled to the second device (home server) via the instrumentation bus, and wherein the first device (terminal device) is operable to send requests to access each of the plurality of traditional instruments (home-located electronic devices) to the second device (home server) (paragraphs [0090-0092, 0095-0096]).

As per claim 91, Nag discloses the method of claim 82, further comprising the second device:

detecting one or more traditional instruments (home-located electronic devices) coupled to the instrumentation bus including the traditional instrument (paragraphs [0093-0094], Applicant's specification further discloses that instruments may be coupled to a server device via an instrumentation bus (page 8, lines 22-23). According to Nagaoka, the devices are coupled to the home server (second device) via the home bus);

- receiving instrument information from each of the detected one or more traditional instruments (paragraph [0171]);
- providing the instrument information from the one or more detected traditional instruments (home-located electronic devices) to the first device (terminal device) (paragraph [0130]);
- wherein the one or more traditional instruments are user-selectable from the first device (terminal device) using the instrument information (paragraphs [0179, 0190-0191, 0218]).

As per claim 93, Nag discloses a device comprising:

- A first port operable to couple to a network (paragraph [0082]);
- A second port operable to couple to an instrumentation bus, wherein the instrumentation bus is not the Internet (paragraph [0093]);



- A processor (paragraph [0086]);

Memory coupled to the processor and operable to store program instructions, wherein the program instructions are executable by the processor to:

- Detect a first traditional instrument coupled to the instrumentation bus, wherein a first instrument driver is required by the device to communicate with the traditional instrument (home-located electronic devices), wherein the device is not configured with the first instrument driver (paragraphs [0041, 0093-0094], Nagaoka teaches the home server (second device) receiving the driver software from the management facility in order to control the home-located electronic devices);
- Receive, from the network, the first instrument driver which is associated with the first traditional instrument (home-located electronic devices) in response to the detection of the first traditional instrument, wherein the first instrument driver comprises program instructions which are executable by the processor to perform one or more of communication with or control of the first traditional instrument (paragraph [0041, 0082, 0090-0091, 0093-0094]);
- Store the first instrument driver in the memory (paragraph [0045]).

Nag does not explicitly disclose:

- Wherein the first device comprises a web browser, wherein the request to access the traditional instrument is generated in response to user input to the web browser, wherein the user input that generates the request to access the traditional instrument is received by the web browser in a web page provided by the second device.

However, in an analogous art, Humpleman teaches a browser based home network using Internet technology to control and command home devices that are connected to a home network. A home device (server) communicates with a home device client using network communication layers by employing the Internet Protocol standard for the network layer. A user accesses a GUI to enable a user to control a home device (paragraphs [0039, 0042-0043]).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Humpleman's first device comprises a web browser wherein the user input generates the request in a web page provided by the second device in Nag's method allowing a homeowner to control and command several different home devices.

As per claim 94, Nag discloses the device of claim 93, wherein the program instructions are further executable by the processor to:

- Wherein the first instrument driver comprises program instruction which are executable by the processor to:
- Access the first traditional instrument through the instrumentation bus (paragraph [0099])
- Receive data sent from the first traditional instrument (paragraph [0105]).

As per claim 95, Nag discloses the device of claim 94, wherein the program instructions are further executable by the processor to:

Transmit the data to network (paragraph [0087]).

As per claim 96, Nag discloses the device of claim 95, wherein, in said transmitting the data to the network, the program instructions are further executable by the processor to transmit a web page to the network, wherein the web page comprises the data (paragraphs [0114, 0179]).

As per claim 97, Nag discloses the device of claim 93, wherein the program instructions are further executable by the processor to:

- Detect a second traditional instrument coupled to the instrumentation bus (paragraph [0092, 0093]).
- Receive, from the network, a second instrument driver which is associated with the second traditional instrument in response to the detection of the second instrument, wherein the second instrument driver comprises program instructions which are executable by the processor to perform one or more of communication with or control of the second traditional instrument (paragraph [0045]);
- Store the second instrument driver in the memory (paragraph [0041]).

As per claim 98, Nag discloses the device of claim 97, wherein the program instruction are further executable by the processor to:

- Receive, from a second device coupled to the network, a request to access the second traditional instrument (paragraph [0095]).

Wherein the second instrument driver comprises program instructions which are executable by the processor to:

- Access the second traditional instrument through the instrumentation bus (paragraph [0093]);
- Receive data from the second traditional instrument (paragraph [0171]).

As per claim 99, Nag discloses the device of claim 98, wherein the program instructions are further executable by the processor to:

- Transmit the data to the network (paragraph [0094]).

As per claim 100, Nag discloses the device of claim 99, wherein, in said transmitting the data to the network, the program instructions are further executable by the processor to transmit a web page to the network, wherein the web page comprises the data (paragraph [0114]).

As per claim 101, Nag discloses a method for using a traditional instrument with a network, comprising:

- A first device (terminal device) detecting the traditional instrument, wherein the first device is coupled to the traditional instrument, wherein the first device (terminal device) is not coupled to the traditional instrument via the Internet, wherein the instrument driver is required by the first device to communicate with the traditional instrument, wherein the first device is not configured with the instrument driver, and

wherein the first device (terminal device) is coupled to the network (home network) (paragraphs [0082, 0090-0091, 0093-0094]);

- Automatically receiving, from the network, the instrument driver which is associated with the traditional instrument, wherein the instrument driver comprises program instructions which are executable by the first device to communicate with the traditional instrument (paragraph [0132], Nagaoka teaches the home server (second device) receiving the driver software from the management facility in order to control the home-located electronic devices);
- After said receiving, communicating with the traditional instrument, wherein said communicating comprises using the instrument driver (paragraph [0045]).

Nag does not explicitly disclose:

- Wherein the first device comprises a web browser, wherein the request to access the traditional instrument is generated in response to user input to the web browser, wherein the user input that generates the request to access the traditional instrument is received by the web browser in a web page provided by the second device.

However, in an analogous art, Humpleman teaches a browser based home network using Internet technology to control and command home devices that are connected to a home network. A home device (server) communicates with a home device client using network communication layers by employing the Internet Protocol standard for the network layer. A user accesses a GUI to enable a user to control a home device (paragraphs [0039, 0042-0043]).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Humpleman's first device comprises a web browser wherein the user input generates the request in a web page provided by the second device in Nag's method allowing a homeowner to control and command several different home devices.

As per claim 102, Nag discloses the method of claim 101, wherein said automatically receiving comprises downloading the instrument driver from a second device coupled to the network (paragraph [0045]).

As per claim 104, Nag discloses the method of claim 101, wherein the request comprises a request for measurement (paragraph [0222]).

As per claim 105, Nag discloses a computer-accessible memory medium comprising program instructions, wherein the program instructions are executable by a processor to implement:

- Scanning an instrumentation bus coupled to a first device to detect instruments coupled to the instrumentation bus (paragraph [0090]);
- Detecting a first traditional instrument coupled to the instrumentation bus, wherein an instrument driver is required by the first device to communicate with the first traditional instrument, wherein the first device is not configured with the instrument

driver, wherein the first traditional instrument does not include inherent Internet capabilities, and wherein the instrumentation bus is not the Internet (paragraphs [0082, 0090-0091, 0093-0094], Nagaoka teaches the home server (second device) receiving the driver software from the management facility in order to control the home-located electronic devices);

- Receiving instrument information from the detected first traditional instrument in response to said detecting the first traditional instrument (paragraphs [0093, 0094-0096, 0106]);
- Transmitting to a network a request for the instrument driver which corresponds to the instrument information, wherein the instrument driver is usable to communicate with the first traditional instrument (paragraph [0039]);
- Receiving the instrument driver from the network (paragraph [0041]);
- Providing the instrument information of the first traditional instrument on a second device (paragraphs [0093, 0094-0096, 0106]);
- Displaying the instrument information of the first traditional instrument on the second device (paragraph [150]);
- Wherein the first traditional instrument coupled to the first device via the instrumentation bus is remotely accessible from the second device to initiate monitor and control functions of the traditional instrument (paragraph [0094-0096]).

Nag does not explicitly disclose:

- Wherein the first device comprises a web browser, wherein the request to access the traditional instrument is generated in response to user input to the web browser,

wherein the user input that generates the request to access the traditional instrument is received by the web browser in a web page provided by the second device.

However, in an analogous art, Humpleman teaches a browser based home network using Internet technology to control and command home devices that are connected to a home network. A home device (server) communicates with a home device client using network communication layers by employing the Internet Protocol standard for the network layer. A user accesses a GUI to enable a user to control a home device (paragraphs [0039, 0042-0043]).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Humpleman's first device comprises a web browser wherein the user input generates the request in a web page provided by the second device in Nag's method allowing a homeowner to control and command several different home devices.

3. Claim 92 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Nagaoka et al. (hereinafter "Nag", US Patent Publication 2002/0180579 A1) in view of Humpleman et al. (hereinafter "Humpleman", US Patent Publication 2001/0011284 A1) and in view of Finke (US Patent 6,614,434 B1).

As per claim 92, Nag, in view of Humpleman, does not explicitly disclose the method of claim 82, wherein the instrumentation bus is a GPIB instrumentation bus.



However, the use and advantage of using such a bus is well-known to one of ordinary skill in the art as evidenced by Finke (column 2, lines 46-58, column 6, lines 1-5).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Finke's GPIB instrumentation bus in Nag's method in order that a digital oscilloscope can be controlled by a remote controller to locate the crossing level of an eye diagram.

#### ***Response to Arguments***

4. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara N. Burgess whose telephone number is (571) 272-3996. The examiner can normally be reached on M-F (8:00am-4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Ettinene can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Barbara N Burgess/

Examiner, Art Unit 2457

December 20, 2009